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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 5th day of June, 1998

BEFORE

THE HON'BLE MR. JUSTICE V.P. MOHAN KUMAR

WRIT PETITION NO. 2196 OF 1996

BETWEEN :

Sri Sudheendranath
S/o. Govindareo Patil,
aged about 31 years,
R/o. Plot No. 22/A,
Matruchaya, Dattanagar,
Behind N.G.O.'s Colony,
Jewargi Road, Gulbarga

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.. PETITIONER

(Sri J.M. Umesh Murthy, Advocate)

A N D :

1. The State of Karnataka
Department of Labour,
M.S. Building,
Bangalore - 1, by its
Secretary
2. The Presiding Officer,
Labour Court, Gulbarga
3. The M.S.K. Mill, Gulbarga
by its General Manager

.. RESPONDENTS

(Sri T.P. Nambiar, A.G.A. for R -1 & 2
M/s Bangalore Law Associates for R - 3)

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Writ Petition filed under Articles 226 & 227 of the Constitution of India, praying to issue; a writ of mandamus directing the 1st respondent to refer the case of the petitioner to the Labour Court Gulbarga without insisting to approach conciliation Officer, etc.

This Writ Petition coming on for Hearing, this day, the Court made the following :

O_R_D_E_R

The petitioner herein is an employee of the 1st respondent. He was employed on 18-6-1985 on daily wages basis. While so, it is alleged that the Mill was closed without any reasons from June 1988 till 20-1-1989. It was subsequently reopened on 21-1-1989 and the petitioner alleges that his services were terminated orally that day. Thereafter the petitioner claims to have made several representations to the employer the 3rd respondent herein but to no avail. Subsequently on 24-9-1993, he filed an application under Section 10(4-A) of the I.D. Act challenging his termination. By the

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the impugned award, the same is rejected on the ground of delay. This award is challenged by the petitioner in these proceedings.

2. I have heard Mr. J.M. Umesh Murthy, learned counsel for the petitioner at length. I do not think the rejection of the application of the petitioner by the Labour Court is justified in the light of the decision of this Court in THE K.S.R. T.C. CENTRAL OFFICE v. GOVINDA SETTY : ILR 1997 KAR 983. A rejection of the application to adjudicate the dispute summarily on the ground of delay is not justified. It was noted therein that even if the application under Section 10(4-A) of the Act is not entertained on the ground of delay, the right to invoke the jurisdiction of the adjudicatory authority is no way jeopardised under Section 10. If so, the rejection of the application under Section 10(4-A) of the Act on the ground of delay does not serve any purpose except exposing the workman to another round of litigation. Therefore, a mere delay is not fatal to

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to the application. The 2nd respondent Labour Court is entitled to examine the claim even after the period of limitation provided sufficient cause is shown for the delay. In the light of the said decision, the impugned award is set aside. The matter is remitted back to the Labour Court for fresh disposal in accordance with law. The writ petition is disposed of.

Sd/-
JUDGE



Pkc/Hrp